

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JULY 19, 2006**

UNAPPROVED
SEPTEMBER 11, 2006

PRESENT: Walter L. Alcorn, Commissioner At-Large
John R. Byers, Mount Vernon District
Frank A. de la Fe, Hunter Mill District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Ronald W. Koch, Sully District
Kenneth A. Lawrence, Providence District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District

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The meeting was called to order at 8:16 p.m. by Vice Chairman John R. Byers, in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Vice Chairman Byers noted that revised development conditions dated July 19, 2006, for SEA 82-V-012-5, Inova Health Care Services, which would be heard on Thursday, July 20, 2006, had been distributed to Commissioners this evening. He said the only change made was the addition of a note to the development conditions indicating that there would be no tree preservation plan required for the site improvements proposed by the application.

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ZONING ORDINANCE AMENDMENT (PORTABLE STORAGE) (Decision Only)
(The public hearing on this amendment was held on May 25, 2006. A complete verbatim transcript of the decision made is included in the date file.)

Commissioner Alcorn MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE CURRENT PROPOSED ZONING ORDINANCE AMENDMENT REGARDING PORTABLE STORAGE BE RETURNED TO STAFF FOR REVISIONS SO THAT IT MAY BE PRESENTED TO THE BOARD OF SUPERVISORS FOR REAUTHORIZATION.

Commissioner Alcorn FURTHER MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT STAFF TO SPLIT THE CURRENT PROPOSED AMENDMENT INTO THREE SEPARATE PARTS THAT CORRESPOND TO THE PRIMARY COMPONENTS OF THE CURRENT AMENDMENT, WHICH INCLUDE: FIRST, RESIDENTIAL PORTABLE STORAGE; SECOND, COMMERCIAL PORTABLE STORAGE; AND THIRD, ROLL-OFF DEBRIS CONTAINMENTS.

Commissioner Hart seconded the motions which carried unanimously with Commissioners Lusk and Murphy absent from the meeting.

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FS-Y06-28 - T-MOBILE NORTHEAST LLC, 15180T Wetherburn Drive

Commissioner Koch MOVED THAT THE PLANNING COMMISSION CONCUR WITH CONSENT AGENDA ITEM, FS-Y06-28, T-MOBILE NORTHEAST LLC, AT 15180T WETHERBURN DRIVE.

The motion carried unanimously with Commissioners Lusk and Murphy absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. ZONING ORDINANCE AMENDMENT (NOTIFICATION OF MILITARY INSTALLATION AND PUBLIC USE AIRPORTS)
2. ZONING ORDINANCE AMENDMENT (AFFIDAVITS)
3. ZONING ORDINANCE AMENDMENT (CIVIL PENALTIES)
4. 2232-Y06-11 - FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY
5. SEA 01-M-017 - ARLINGTON VIRGINIA FEDERAL CREDIT UNION

This order was accepted without objection.

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ZONING ORDINANCE AMENDMENT (NOTIFICATION OF MILITARY INSTALLATION AND PUBLIC USE AIRPORTS) - To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Add a requirement for Zoning Map amendment, final development plan, special exception, or special

ZONING ORDINANCE AMENDMENT (NOTIFICATION OF
MILITARY INSTALLATION AND PUBLIC USE AIRPORTS)

July 19, 2006

permit applications when the application property, or part thereof, is located within 3000 feet of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public use airport, that written notice of the application must be given by the hearing body at least 10 days before the hearing to the commander of the military base, military installation, or military airport or the owner of a public use airport.
COUNTYWIDE. PUBLIC HEARING.

Paige Mathes, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the proposed Zoning Ordinance Amendment.

In response to a question from Commissioner Wilson, Ms. Mathes said the Coast Guard base on Telegraph Road would be considered as a military installation.

Vice Chairman Byers called for speakers from the audience, but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, he closed the public hearing and recognized Commissioner Wilson for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Wilson MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING MILITARY INSTALLATION AND PUBLIC USE AIRPORT NOTIFICATION, AS SET FORTH IN THE STAFF REPORT DATED MAY 1, 2006.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Lusk and Murphy absent from the meeting.

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ZONING ORDINANCE AMENDMENT (AFFIDAVITS) - To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: In accordance with §15.2-852 of the *Code of Virginia*, which goes into effect on July 1, 2006, revise the affidavit submission requirements to no longer require affidavits for Board's own motion rezoning applications that involve more than 10 parcels owned by different individuals, trusts, corporations, or other entities.
COUNTYWIDE. PUBLIC HEARING.

Paige Mathes, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the proposed Zoning Ordinance Amendment.

Vice Chairman Byers called for speakers from the audience, but received no response. There were no comments or questions from the Commission and staff had no closing remarks; therefore, he closed the public hearing and recognized Commissioner Hart for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING AFFIDAVIT SUBMISSION REQUIREMENTS FOR BOARD'S OWN MOTION REZONING APPLICATIONS, AS ADVERTISED.

Commissioners Alcorn and Hopkins seconded the motion which carried unanimously with Commissioners Lusk and Murphy absent from the meeting.

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ZONING ORDINANCE AMENDMENT (CIVIL PENALTIES) - To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: As provided for under a 2006 amendment to the *Code of Virginia* § 15.2-2209, the proposed amendment increases the civil penalties for any one zoning violation from \$100 to \$250 for the first violation, and from \$250 to \$500 for subsequent violations arising from the same set of operative facts. COUNTYWIDE. PUBLIC HEARING.

Paige Mathes, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the proposed Zoning Ordinance Amendment.

Commissioner Hall expressed concern that the proposed civil penalties would fail to dissuade commercial property owners from continuing to commit zoning violations. Lorrie Kirst, ZAD, DPZ, replied that staff would typically use injunctive relief, which was more effective than civil penalties, to seek compliance.

In response to questions from Commissioner Wilson, Ms. Kirst explained that injunctive relief mandated the alleged violator to attain compliance by a certain date or else the court judge would impose additional fines, which would be higher than civil penalties. She said staff's primary goal was not to accumulate fines, but to obtain compliance in a quick and effective manner. She noted that civil penalties had not been issued by staff in the last five years because they had failed to provide sufficient incentive to correct violations.

Commissioner Hall acknowledged that the proposed Amendment would reflect the adopted legislation that had amended the *Code of Virginia* to increase the civil penalties for violations of the Zoning Ordinance. She questioned why the Ordinance would be amended to add a provision that staff had not enforced in the last five years. She commented that there needed to be a more proficient approach to address property owners who frequently committed zoning violations.

Commissioner Lawrence disagreed with amending the Ordinance to include provisions that would not be enforced by staff.

Commissioner Hart pointed out that staff had been prohibited by the Virginia General Assembly from exceeding the adopted maximum amount for civil penalties. He stated that the Zoning Administrator would often attend court proceedings to request injunctive relief to address zoning violations. He explained that the monetary component of injunction procedures would originate from either a court order providing for specific contingencies in the event that the violation had not been removed, a specific component of a court order in the injunction case, or a contempt proceeding for the violator who had not obeyed the judge's order under which the County would recoup some or all of its expenses incurred to that point. Commissioner Hart noted that the Amendment would not limit the Zoning Administrator's ability to request penalties in court orders greater than the limit on civil penalties or other monetary penalties associated with contempt for the violator's failure to abide by a court order in an enforcement proceeding. Ms. Kirst agreed with these statements.

Responding to questions from Commissioner Wilson, Ms. Kirst said she would verify whether staff would issue a summons for the first violation and then issue a separate summons for the subsequent days that the violation had occurred. She explained that staff would typically give the alleged violator a verbal warning and a reasonable timeframe to attain compliance, depending upon the situation. She noted that the fines would begin to accumulate at the conclusion of the timeframe if the violator had failed to comply with the Zoning Ordinance.

Commissioner Hart pointed out that the Amendment sought only to increase the fine for civil penalties and not to change the procedures for issuing a summons or calculations of the fines. Ms. Kirst concurred with this statement.

Vice Chairman Byers called for speakers from the audience, but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, he closed the public hearing and recognized Commissioner Hart for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING CIVIL PENALTIES FOR ZONING VIOLATIONS, AS ADVERTISED.

Commissioner Hopkins seconded the motion which carried by a vote of 9-0-1 with Commissioner Lawrence abstaining; Commissioners Lusk and Murphy absent from the meeting.

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2232-Y06-11 - FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY - Appl. to construct 30 units of magnet housing (for persons participating in professional training programs) and a training facility at 12114 and 12116 Lee Jackson Memorial Highway, Fairfax. Tax Map 46-3 ((1)) 9 and 9A. Area III. SULLY DISTRICT. PUBLIC HEARING.

Leanna Hush, Planning Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended that the Planning Commission find the proposal to be substantially in accord with provisions of the adopted Comprehensive Plan.

In response to a question from Commissioner Hart, Ms. Hush explained that the residents of the proposed development would enter into a 30-day rental agreement, which had been classified as a hotel/motel use under the Zoning Ordinance and a by-right in the C-8 District. She said the residents would renew their leases during the duration of their participation in a training program.

Cynthia Ianni, with the Design, Development and Construction Division of the Fairfax County Department of Housing and Community Development (DHCD), stated that the proposal had received the support of the Fair Oaks Estates Homeowners Association, the Fair Woods Homeowners Association, the Sully District Land Use and Transportation Committee, Board Supervisors Michael Frey and Elaine McConnell, Planning Commissioner Koch, and Redevelopment and Housing Authority Commissioner John Litzenberger, Jr. Ms. Ianni noted that the applicant would meet again with these groups and individuals prior to construction. She said the applicant would work with DPZ and Department of Public Works and Environmental Services staff to construct a project that would be in harmony with the Comprehensive Plan and would provide affordable housing for Fairfax County.

Responding to a question from Commissioner Wilson, Ms. Ianni indicated that the Fire and Rescue and Police Departments would employ the participants of the training programs.

In response to another question from Commissioner Wilson, Elisa Johnson, coordinator for the Magnet Housing Program, DHCD, explained that the goal of the Magnet Housing Program was to provide affordable housing to participants of a training program for approximately two years and provide them the self-sufficiency to move out of the housing project and purchase or rent a home in the County.

Responding to a question from Commissioner de la Fe, Ms. Johnson noted that the applicant would determine the eligibility of the residents and the period of residency had been limited to two years to reflect the maximum training period for the Fire and Rescue Department.

In response to questions from Commissioner Wilson, Ms. Johnson stated that the applicant had recently established a partnership with Fairfax County Public Schools to provide magnet housing for teachers, school bus drivers, and other personnel. She indicated that the applicant had purchased affordable dwelling units at Legato Corner to house teachers and planned to purchase units at East Markets to house school bus drivers. Ms. Johnson noted that the rental rates had not yet been determined for the proposed units, but said the current rental rate was at approximately 50 percent of the area median income and participants of the Magnet Housing Program would typically earn below 70 percent of that median.

Commissioner Wilson suggested that the project be used as a model for the magnet housing proposal for the Laurel Hill Adaptive Reuse area. Ms. Johnson replied that the applicant had been involved in discussions related to that proposal.

There being no speakers for this application, Vice Chairman Byers noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, he closed the public hearing and recognized Commissioner Koch for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Koch MOVED THAT THE PLANNING COMMISSION FIND 2232-Y06-11 TO BE SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Hart and Hall seconded the motion which carried unanimously with Commissioners Lusk and Murphy absent from the meeting.

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SEA 01-M-017 - ARLINGTON VIRGINIA FEDERAL CREDIT UNION - Appl. under Sect. 7-607 of the Zoning Ordinance to amend SE 01-M-017 previously approved for a vehicle sale, rental, and ancillary service establishment to permit a drive-in bank (credit union) in a Highway Corridor Overlay District, and to delete vehicle sale, rental, and ancillary service establishment. Located at 5666 Columbia Pi. on approx. 1.58 ac. of land zoned C-8, CRD, HC, and SC. Tax Map 61-2 ((1)) 83, 84, and 84A. MASON DISTRICT. PUBLIC HEARING.

Tara Wiedeman, Esquire, with Walsh, Colucci, Lubeley, Emrich & Terpak, PC, reaffirmed the affidavit dated June 14, 2006. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a pending case with Ms. Wiedeman's law firm but there was no financial relationship and it would not affect his ability to participate in this case.

Tracy Strunk, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended denial of the application because of outstanding design issues and inadequate buffering along the northern boundary of the subject property.

In response to a question from Commissioner Koch, Ms. Strunk stated that the revised development conditions dated July 19, 2006 had not changed staff's recommendation.

Responding to questions from Commissioner Hall, Ms. Strunk said there was currently minimal buffering behind the existing building adjacent to the residential area with fencing along the property line. She noted that staff believed the proposed screening would insufficiently address the Comprehensive Plan recommendation for effective landscape buffering.

In response to questions from Commissioner Harsel, Ms. Strunk distributed the revised Generalized Development Plan to her and indicated that the layout had not changed but information had been provided to address staff's questions regarding materials and height issues. She stated that the existing building had been constructed in 1961, prior to the current zoning restrictions regarding buffering, and would be demolished with the proposed development.

Commissioner Hart recommended that the by-right uses allowed by the Zoning Ordinance for a C-8 District be restricted in the development conditions for the proposed ground floor retail. Ms. Strunk replied that staff would consider this recommendation.

Responding to questions from Commissioner Wilson, Ms. Strunk explained that the proposed extension above the three-foot parapet wall on the north face of the building would not be in compliance with the Comprehensive Plan because it would pose a visual impact on the adjacent residential area. She noted, however, that the proposed extensions on the south and west faces of the building would be permitted by the Zoning Ordinance.

Commissioner Wilson commented that the proposed parapet extension on the north face of the building would screen the mechanical equipment better than fencing would.

Ms. Wiedeman stated that approval of the application would allow for the relocation of the applicant's headquarters from Arlington County to Fairfax County. She said the application would help revitalize the appearance and function of the Baileys Crossroads Community Business Center through the coordination of land uses. She explained that the application would provide a quality building, streetscape improvements, pedestrian connections throughout the site, transitions from more to less intense uses, and buffering and screening between commercial and residential uses; retain neighborhood-serving retail uses; improve economic vitality through commercial revitalization in the area; and foster future transportation improvements. Ms.

Wiedeman noted that the revisions to the Special Exception Amendment Plat and the development conditions had addressed most of staff's concerns; however, the applicant had disagreed with staff's remaining concerns regarding the orientation of the proposed building and the sufficiency of the proposed transitional screening yard and barrier, particularly along the northern property line adjacent to the residential area. She said the building's location and design would sufficiently address the needs of the applicant and the screening would be in accordance with the Zoning Ordinance and meet the intent of the Comprehensive Plan. Ms. Wiedeman explained that the applicant believed that the proposed architectural element on the north face of the building should not be considered in the overall building height because it would serve to screen the majority of the mechanical equipment area. She stated that staff was currently reviewing this issue, which would be resolved prior to the Board of Supervisors' public hearing. She noted that the application had received the support of the Baileys Crossroads Revitalization Corporation and the Mason District Land Use Advisory Committee.

In response to a question from Commissioner Hart, Ms. Wiedeman indicated that the proposed retail space would accommodate up to two tenants, which had yet to be identified. She said the applicant would consider restricting the allowed retail uses.

There being no speakers for this application, Vice Chairman Byers noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, he closed the public hearing and recognized Commissioner Hall for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hall MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ON SEA 01-M-017 TO A DATE CERTAIN OF JULY 20, 2006, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioners Lawrence and Wilson seconded the motion which carried unanimously with Commissioners Lusk and Murphy absent from the meeting.

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The meeting was adjourned at 9:20 p.m.
John R. Byers, Vice Chairman
Suzanne F. Harsel, Secretary

CLOSING

July 19, 2006

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Kara A. DeArrastia

Approved on: _____

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission